



THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

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Re: Comments on draft Biological Opinion

To Whom It May Concern:

This letter constitutes the Confederated Tribes of the Colville Reservation's (CCT) History/Archaeology Department's comments on the National Marine Fisheries Service's draft Biological Opinion on Operation of the Federal Columbia River Power System in response to the Endangered Species Act. The great failing of this document is the lack of specifics regarding the affect to cultural resources of the proposed program. This is not in keeping with the requirements of federal law for a planning process that will have broad-based impacts to Native American traditional territories and culture.

The National Historic Preservation Act (NHPA) requires that federal agencies consider the effects to cultural resources of their proposed actions. This consideration of effects must be included in the planning phase of any actions that could impact potentially significant cultural properties. The Biological Opinion assessment to date has not assessed potential impacts to cultural resources. This is in violation of the requirements of NHPA. Further, by attempting to put off assessment of effects until specific actions are implemented, the strategy violates the National Environmental Policy Act's provision against segmenting an overall effect into smaller defined effects in the planning process. In addition, a number of other cultural resource related laws, regulations, and executive orders also should be addressed in the federal planning process, including the Native American Graves Protection and Repatriation Act, Executive Order 115 93 - Protection and Enhancement of the Cultural Environment, and Executive Order 13007 - Indian Sacred Sites.

Further, consultation to this point in the Biological Opinion development has focused only on generalities. Consultation with the CCT's Tribal Historic Preservation Officer regarding the federal agencies' plan for identifying and appropriately managing archaeological sites, traditional cultural properties, and sacred sites that may be affected by the program has not occurred. Such consultation is required by NHPA and is the cornerstone of most federal agency Tribal Policies including the Department of the Army and the Bonneville Power Administration. The CCT presented a proposal to the Federal Caucus describing the CCT's willingness to conduct the necessary analyses and prepare an action plan that would assist the Federal Caucus agencies in meeting their cultural resources compliance for the salmon recovery plan. We have yet to receive a response to this proposal even though the Federal Caucus agencies have not proposed any process for meeting cultural resources compliance for the salmon recovery plan.

As such, the CCT asserts that the Draft Biological Opinion does not comply with federal law. The CCT rejects this draft document and calls for the Federal Caucus agencies to review applicable laws and regulations and revise the document to effect compliance. The CCT renew their offer to conduct the necessary assessments and prepare an action plan that would assist the agencies in meeting their regulatory responsibilities.

Sincerely,

Adeline Fredin
Tribal Historic Preservation Officer